CABLE NEWS

OCTOBER 23, 1970

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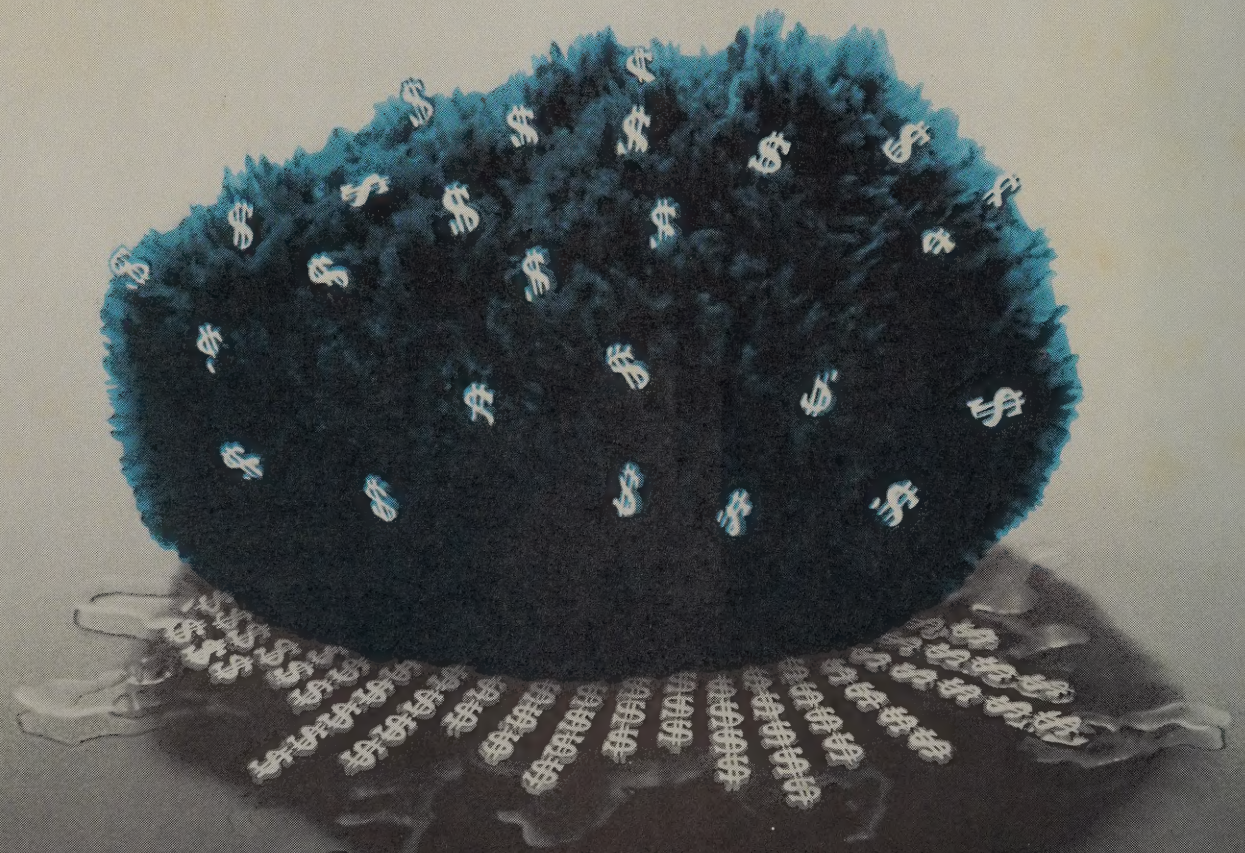

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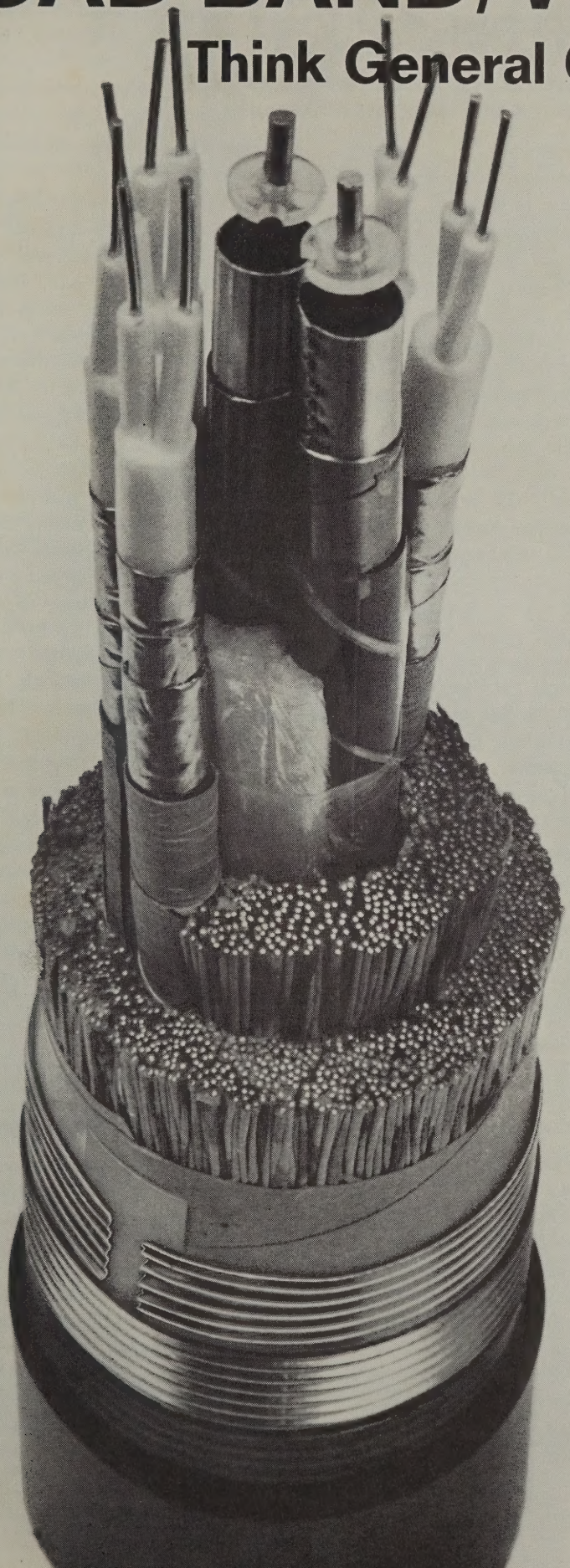

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CABLE TV BUREAU AND N.Y. TELCO TO TURN BACK JUSTICE DEPARTMENT'S EFFORT TO JOIN BATTLE

Cable Television Bureau attorneys noted that while the Justice Department sought to enter the case to have it certified directly to the Commission for decision, it had already been done anyway.

The FCC's Cable Television Bureau and the New York Telephone Co. both have asked the Commission to turn back the Justice Department's effort to join the battle over whether the telco should be authorized to expand its service to Comtel, Inc. in New York City.

Cable TV Bureau attorneys Abraham Leib and James Tansey noted that while the Justice Department sought to enter the case to have it certified directly to the Commission for decision, that had already been done anyway. New York Telco made the same point.

The Justice Department also had argued that the Commission should look at the case as a basis for policies on duplication and overbuilding, and that the Hearing Examiner's Initial Decision favoring the telco should be remanded.

The Cable TV Bureau said the overbuilding issue "appears far more suitable for rulemaking than it does for settlement in an adjudicatory proceeding." As for remand, the Bureau added, "The present record is sufficiently complete to support a decision without remand, and expedition must be sought in view of the outstanding stays."

New York Telco said Justice filed its motion too late, and that its supporting brief "not only demonstrates a lack of understanding of the technical aspects of CATV transmission . . . but asks the Commission here to address itself in an adjudicatory proceeding to what the Department characterizes as ' . . . several serious policy questions of general importance to the development of CATV.' Clearly, the Department is seeking here to develop some far-reaching rules of general applications which the Commission has continually asserted are properly a part of its general inquiry."

Justice in its brief raised the question of policy on a telco tariff restriction "limiting a CATV operator to non-reversible one-way transmission."

The telco said the tariff language describes the physical capability of equipment used to provide lease-back service to the unfranchised operator Comtel. "The amplifiers which are employed in this service of the New York Telephone Co. are not capable of passing signals in both directions," the telco said. "So far as we are aware, with the possible exception of some experimental installation, every CATV system in operation today . . . is only capable of one-way video transmission.

"If the CATV industry had developed a real requirement for two-way transmission which would economically justify the industry in installing two-way amplifiers, they would have been installed and they would be operating in CATV systems today.

"If a demand should develop for common carrier channel service with a two-way capability, tariffs for such service will have to be filed. The Telephone Company will be willing to offer the service if the equipment has been developed and this Commission approves. Such a tariff would have to take into account the cost of the two-way amplifiers and the necessary additional filters."

The telco concluded: "It is hard to comprehend how the agency charged with enforcement of the antitrust laws can ask the Commission to further delay market entry to the only competitor to those who have been granted *de facto* monopolies by the City of New York." This referred to the cable operators franchised by the City for Manhattan CATV operations: TelePrompTer Corp. and Manhattan Cable TV.

The FCC's Cable TV Bureau qualified its opposition to the Justice Department motion in one way: If the Commission should decide to have Hearing Examiner David Kraushaar reexamine factual questions, the Bureau said, it would not oppose the intervention motion, "to allow the Department to participate fully in the preparation of a further evidentiary record."

DISTANT SIGNALS WANTED BY CITY OF SAN DIEGO

Inescapable conclusion of the citizens of San Diego is that they want to subscribe "to CATV which carries distant signals!"

The City of San Diego has appealed to the FCC to give its citizens what they want: distant signals.

In comments on the Commission's CATV rule proposals, City Attorney John W. Witt said that "local government officials concerned with CATV, the City Council, the City Attorney and the Communications Department of the City Manager's office receive a continuous stream of inquiries and complaints regarding the non-availability of CATV with distant signals.

"This continuous communication between the citizens of San Diego and their local government has led local officials to the inescapable conclusion which is the reason for these comments: the citizens of San Diego want the opportunity to subscribe to CATV which carries distant signals!"

The Commission's order cutting off expansion of distant-signal services in San Diego has also discouraged risk capital and thereby curtailed CATV growth in the area, Witt added.

He also reported the City's position against limitation of franchise fees and against adoption of national performance standards.

The Commission heard from an assortment of other pleaders last week in its CATV proceedings on distant signals,

technical standards and federal-state-local relationships.

Central Associated Cable Casting Education and Service Systems Inc. (Central ACCESS), a firm selling interests in regional origination groups to be controlled by participating cable systems, urged a minimum origination schedule of four hours a day, five days a week. "Anything substantially less will mean the channel is dark so much of the time that viewers will not form the habit of expecting worthwhile information on it," Central ACCESS president Kenneth L. Downes, Jr., said.

Downes also suggested "serious consideration" for lowering the subscriber cutoff for required origination from 3,500 to 1,000, because he said systems down to that size can originate profitably, so the policy might as well benefit as many viewers as possible. He said an exception should be made, however, for systems at least 50 miles from any other system, and the cutoff for them should be raised to 5,000.

Mrs. M. M. (Polly) Dunn of Columbus (Ms.) TV Cable Corp. included with her filing with the Commission a copy of a guest editorial she wrote for *CABLE NEWS.* In her accompanying comments she asked the Commissioners, before taking final action, to put themselves in the place of TV viewers.

"Your decisions will affect my life," she said. "I do not think it is too much to ask you to review each one of these proposals from the seat of the chair in front of your own television set. As FCC rules restrict the viewing *you* are allowed to see—or worse, if your lovely new home is barely beyond the CATV's franchised area and you cannot get the cable TV at all—measure yourself for indignation AND for your private opinion of CATV's 'public service'!" (The Washington area, in a major-market overlap with Baltimore, has no CATV.)

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CATV OPERATOR ASKS FOR WAIVER REQUEST

A California cable operator that ran afoul of the FCC's new cross-ownership ban on TV and CATV in the same area has come to the Commission with a waiver request.

The petition of San Jose Cable TV Service was dated Oct. 15 and reached the Commission the same day. The previous day, the Commission had written the city attorney and communications coordinator of Santa Clara, Ca., expressing disfavor with granting a franchise to the cable firm because of the joint ownership problem.

However, the City of Santa Clara, which had asked for the Commission's view Oct. 8, went ahead and awarded the franchise to San Jose Cable on Oct. 13—the day before the Commission's no-no letter—according to San Jose Cable's petition.

The Commission (Commissioner Robert Wells dissenting) told the city that issuance of the franchise to a company co-owned by the licensee of a local TV station "would not violate the literal text of the Commission's present rules, but would be contrary to the Commission's policy against cross-ownership of TV and CATV facilities in the same locality."

San Jose Cable TV Service is a joint venture of Northwest Publications Inc. and Gill Industries. Gill is licensee of station KNTV in San Jose. Santa Clara is within KNTV's Grade B contour.

However, San Jose Cable claimed in its petition to have a special case. Its attorneys, Robert L. Heald and Robert L. Olender, said the firm had, since 1965, developed an elaborate and expensive, microwave-served system designed to serve the contiguous communities of San Jose, Campbell and Santa Clara. Systems already are operating in the first two communities.

The whole metropolitan area can best and most economically be served by one system, they maintained, pointing out that the firm had applied for the Santa Clara franchise Oct. 15, 1969. The FCC cross-ownership rule became effective last Aug. 10 but applies to such ownerships that came into existence after last July 1.

San Jose Cable asked for a waiver to operate until Aug. 10, 1973—the date the Commission set for divestiture of grandfathered cross-ownerships. Otherwise, the firm said, it will suffer a staggering blow and may even be ruined.

As of Oct. 1, the existing system had 3,703 subscribers on a 22-channel system and was adding subscribers at a rate of 350 a week. The firm said it is currently building a 1,800-mile system at an estimated cost of $15 million, to be completed in two to three years with a subscriber potential of 100,000. A studio for local color origination, four channels of local news and a $60,000 computer are planned for the immediate future or already installed.

San Jose Cable said it plans "to provide this area with the best available television service the cable industry has the ability to offer. Such a goal can be achieved only if the three cities are treated as a single community and not as separate political subdivisions."

However, the petition added, the firm is still losing money and can only realize its plans if it is permitted to stick to its development program.

SOL SCHILDHAUSE STILL ACTING CHIEF

Sol Schildhause is still acting chief of the FCC's Cable Television Bureau.

There was some wondering about that after *Broadcasting* magazine, in one of those typographical errors that look as though they might be right, spoke of "Sol Schildhause, active chief, Cable Television Bureau, FCC . . ."

The adjective was not necessarily wrong, some Commission observers pointed out, but the description was technically incomplete without "acting" in there as well as "active."

Schildhause has been acting chief since the Bureau was created out of the old CATV Task Force, which he also headed. One well-placed source at the Commission reports that Schildhause is expected to get the permanent job, but adds that the Commission is still trying to get the position through the required Civil Service red tape.

STRASSBURG POINTS OUT POSSIBILITY OF SHOE BEING ON OTHER FOOT

Cable operators who cheered when the FCC ruled telephone companies out of CATV service in the telcos' own operating territories may find themselves in the same boat when the "wired city" becomes reality, Common Carrier Bureau Chief Bernard Strassburg has suggested.

Strassburg pointed to the possibility in a speech last week in San Francisco at a seminar during the fall conference of the Electronic Industries Association.

Some special problems already can be foreseen in looking toward the "wired city," Strassburg said. "One such problem is the relationship between communications facilities and communications services. Whereas the conventional common carrier has regarded his undertaking as the supplier of both facilities and services, we are moving more and more to conditions where suppliers of services involving communications do not also supply the facilities.

"This condition is typified by the sale of such services as remote data processing, information storage and retrieval and other specialized information services dependent upon the use of common carrier communications facilities.

"Thus, we find potential suppliers of services facing competition with the owners of facilities who also engage in the sale of such services. This creates difficult issues of regulatory policy and the establishment of conditions of fair competition. . . .

"You may . . . recall that in Docket No. 18509 the Commission promulgated a policy designed to exclude common carriers from engaging in the retailing of CATV services to the public in their operating territories. This policy was premised upon the unfair competitive advantage enjoyed by such carriers by virtue of their control of pole lines and conduit needed by the potential CATV operators.

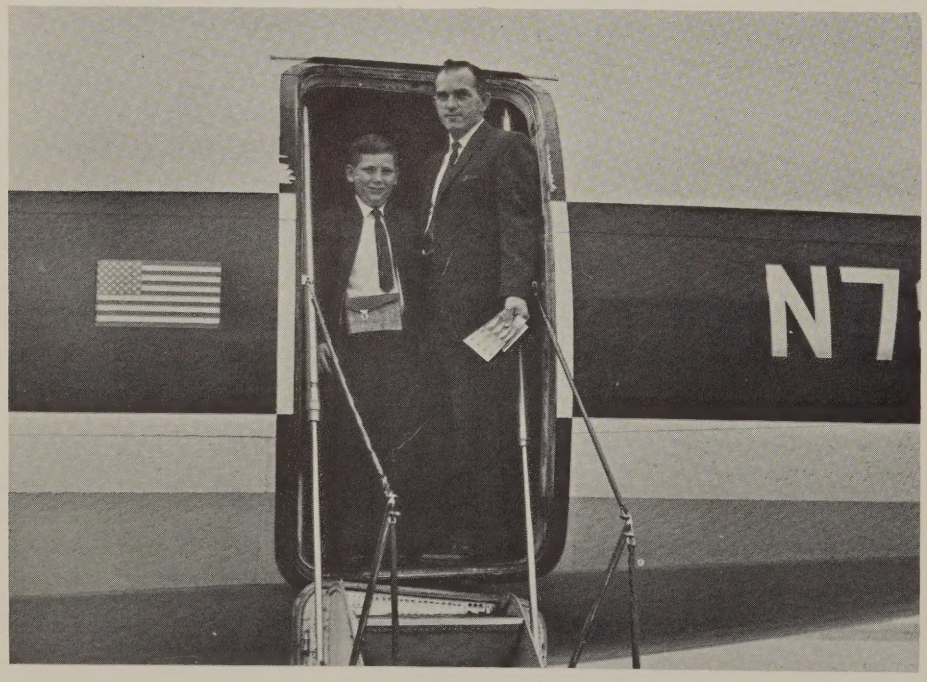
"Similar problems will arise again in the area of broadband cable distribution when the owner of the cable is offering his own services in competition with suppliers of other services which must use his cable to reach their markets. Thus, the entire regulatory community should remain alert to evolving ownership patterns and their impact upon the conditions of competition.

"This means that it is imperative that federal, state and local regulatory authorities provide direction now to guide the evolution of broad-band cable distribution arrangements. Otherwise, the developing ownership arrangement will preempt existing options and, in effect, determine the structure of both the industry and market. Regulation will have little choice but to accommodate itself to the vested interests already created."

On the following day Clay T. Whitehead, director of President Nixon's Office of Telecommunications Policy, told the United States Independent Telephone Assn. in Honolulu that "the time has come to try to simplify the regulatory process, not to dilute its effectiveness but perhaps to help to sort out what is constructive from that which is a net loss for both consumer and industry.

"It is time to discuss publicly, as we discuss among ourselves, the fact that many regulatory policies are counterproductive to the public interests they superficially foster."

This is the father and son "team" that won TelePrompTer's 1970 World Series Sweepstakes—and that meant free tickets to all 1970 Series games, plus travel and hotel expenses paid. Harry Straight, Jr., and his dad, Harry Sr., live in Elmira, N. Y.



UNGER APPOINTMENT STILL HANGING FIRE

Congress is taking its election break with the nomination of Sherman Unger to the FCC still stuck in the Senate Commerce Committee.

Since the legislators won't reconvene until Nov. 16, the questions of whether and when Unger's nomination will go ahead toward confirmation remain unanswered.

President Nixon could make an interim appointment to the vacant seat on the Commission, although that would be a surprise to many. The White House put forward the nomination of the general counsel to the Housing and Urban Development Department last July, then asked for the confirmation hearing to be held up pending completion of an Internal Revenue Service audit of Unger's 1968 income tax return.

It is now reported that the Commission does not expect to get to its public, en banc hearing on the plan until January at earliest. Reply comments are due by Nov. 23, and a staff briefing for the Commission is set for Dec. 7.

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TCI ADDS SYSTEMS

Tele-Communications, Inc. (TCI) has added 11 new cable television franchise interests to its 57 operating systems in the third quarter of 1970. The company said the 11 cities offer an added potential of almost 80,000 subscribers to the 90,000 TCI already serves in 17 western states.

TCI said the new franchises include Riverside, Ca., with a population of 140,000, nine other southern California cities and Carrollton, Ga. TCI has 50 per cent of Riverside and 80 per cent of the other 10.

TCI's franchise application at Riverside, one of six submitted by competing companies, was granted by the City Council there after a public hearing Sept. 15. Nine franchises in adjoining San Bernardino County were acquired last month in a transaction with United Cablevision, Inc., a subsidiary of United Telco, Inc. Control of the Carrollton franchise was concluded earlier.

"The number of homes in the 11 new franchise areas is estimated at between 78,000 and 80,000," said Bob Magness, TCI president. "There are 212,000 homes still to be served in our 57 other franchised cities. Thus, the 11 new acquisitions represent an increase in subscriber potential of about 36 per cent for systems we operate."

Continuing, Magness said that construction is now underway at Carrollton, with a potential of about 4,500, and that preliminary engineering will begin by Oct. 1 on the Riverside and San Bernardino County systems. The latter include the cities of Loma Linda, Hesperia, Spring Valley Lake, Adelanto, Yucaipa, Grand Terrace, Bryn Mawr, California City and the George Air Force Base.

CPI REPORTS GAIN

Communications Properties, Inc. has released financial results for the first nine months of fiscal 1970.

Gross revenue reported by CPI is $2,938,060 and a net income of $191,810, equivalent to 27 cents per share.

"We are particularly pleased with the results of the third quarter, which sets a record for the company," CPI president Jack R. Crosby, said.

During the third quarter ending July 31, 1970, the company had total revenues of $1,030,214 and a record pre-tax earnings of $141,651. The quarter also marks the first complete year of operation as a publicly-held company.

"In the past quarter, we completed utilization of certain available tax loss carry forwards, and have adjusted our earnings to reflect this," Crosby said. This downward adjustment is equivalent to three cents per share over the nine month period.

A proxy has been mailed calling a special shareholders' meeting to approve a merger of Tower Communications into Communications Properties, Inc.

The merged company would be the 14th largest CATV operator in the United States. On a combined basis, CPI would serve approximately 65,000 subscribers with a potential of more than 315,000 homes that can be reached by cable.

Tower Communications operates 23 CATV systems in Ohio, Pennsylvania, West Virginia and Kentucky.

NCTA WANTS RECORDS

NCTA is pressing on with its court effort to make the FCC cough up records on which the Commission based its new fee schedule.

The suit was brought under the Freedom of Information Act of 1967, which NCTA contends should make the data available for public inspection.

The action was dismissed by Federal Court in Washington, and NCTA has appealed to the U. S. Court of Appeals for the D. C. Circuit.

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(All replies held in strict confidence)

Tele-Communications, Inc. (TCI) and Centre Video Corp. have announced an agreement in principal on a proposed merger that will increase the number of TCI's CATV subscribers to more than 130,000 through 73 systems in 21 states.

The transaction was announced jointly by TCI president Bob Magness and James R. Palmer, president of Centre Video.

2 Assistant Chief Technicians With CATV Experience
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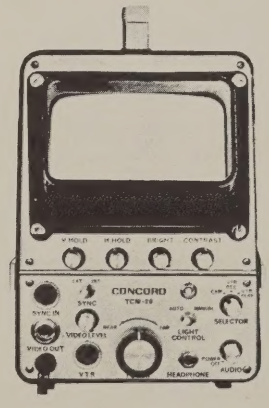

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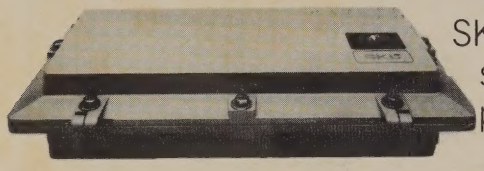

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